



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB1469

Introduced 02/10/05, by Rep. Michelle Chavez

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/Art. 10A heading new  
720 ILCS 5/10A-5 new  
720 ILCS 5/10A-10 new

Amends the Criminal Code of 1961. Creates the offenses of involuntary servitude, sexual servitude of a minor, and trafficking of persons for forced labor and services. Mandates restitution. Provides that the Attorney General, in cooperation with the Administrative Office of the Illinois Courts, State's Attorneys, circuit court officials, the Department of Human Services, and the Department of Public Aid shall ensure that victims of trafficking or involuntary servitude are referred to appropriate social services, federal and State public benefits programs, victim protection services and immigration assistance services, where applicable. Provides that State's Attorneys shall refer an immigrant victim to the Attorney General for certification that the individual is a victim of trafficking or involuntary servitude so that the individual can qualify for a special immigrant visa and can have access to available federal benefits. Provides that the Attorney General, in consultation with the Department of Human Services, the Department of Public Aid and the Administrative Office of the Illinois Courts, shall, within 6 months after the effective date of this amendatory Act, determine and issue a report on how existing social services, public aid programs and victim protecting laws and rules respond to the needs of victims of trafficking and involuntary servitude.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by adding  
5 Article 10A as follows:

6 (720 ILCS 5/Art. 10A heading new)

7 ARTICLE 10A. TRAFFICKING OF PERSONS AND INVOLUNTARY SERVITUDE

8 (720 ILCS 5/10A-5 new)

9 Sec. 10A-5. Definitions. In this Article:

10 (1) "Intimidation" has the meaning prescribed in Section  
11 12-6.

12 (2) "Commercial sexual activity" means any sex act on  
13 account of which anything of value is given, promised to, or  
14 received by any person.

15 (3) "Financial harm" includes intimidation that brings  
16 about financial loss, criminal usury, or employment contracts  
17 that violate the Frauds Act.

18 (4) "Forced labor or services" means labor or services that  
19 are performed or provided by another person and are obtained or  
20 maintained through an actor's:

21 (A) causing or threatening to cause serious harm to any  
22 person;

23 (B) physically restraining or threatening to  
24 physically restrain another person;

25 (C) abusing or threatening to abuse the law or legal  
26 process;

27 (D) knowingly destroying, concealing, removing,  
28 confiscating, or possessing any actual or purported  
29 passport or other immigration document, or any other actual  
30 or purported government identification document, of  
31 another person;

1           (E) blackmail; or

2           (F) causing or threatening to cause financial harm to  
3           or exerting financial control over any person.

4           (5) "Labor" means work of economic or financial value.

5           (6) "Maintain" means, in relation to labor or services, to  
6           secure continued performance thereof, regardless of any  
7           initial agreement on the part of the victim to perform such  
8           type of service.

9           (7) "Obtain" means, in relation to labor or services, to  
10           secure performance thereof.

11           (8) "Services" means an ongoing relationship between a  
12           person and the actor in which the person performs activities  
13           under the supervision of or for the benefit of the actor.  
14           Commercial sexual activity and sexually-explicit performances  
15           are forms of "services" under this Section. Nothing in this  
16           provision should be construed to legitimize or legalize  
17           prostitution.

18           (9) "Sexually-explicit performance" means a live or public  
19           act or show intended to arouse or satisfy the sexual desires or  
20           appeal to the prurient interests of patrons.

21           (10) "Trafficking victim" means a person subjected to the  
22           practices set forth in subsection (a) of Section 10A-10  
23           (involuntary servitude) or subsection (b) of Section 10A-10  
24           (sexual servitude of a minor), or transported in violation of  
25           subsection (c) of Section 10A-10 (trafficking of persons for  
26           forced labor or services).

27           (720 ILCS 5/10A-10 new)

28           Sec. 10A-10. Criminal provisions.

29           (a) Servitude. Whoever knowingly subjects, or attempts to  
30           subject, another person to forced labor or services shall be  
31           punished as follows, subject to subsection (d):

32           (1) by causing or threatening to cause physical harm to  
33           any person, is guilty of a Class X felony;

34           (2) by physically restraining or threatening to  
35           physically restrain another person, is guilty of a Class 1

1 felony;

2 (3) by abusing or threatening to abuse the law or legal  
3 process, is guilty of a Class 2 felony;

4 (4) by knowingly destroying, concealing, removing,  
5 confiscating or possessing any actual or purported  
6 passport or other immigration document, or any other actual  
7 or purported government identification document, of  
8 another person, is guilty of a Class 3 felony;

9 (5) by using intimidation, or using or threatening to  
10 cause financial harm to or by exerting financial control  
11 over any person, is guilty of a Class 4 felony.

12 (b) Servitude of a minor. Whoever knowingly recruits,  
13 entices, harbors, transports, provides, or obtains by any  
14 means, or attempts to recruit, entice, harbor, provide, or  
15 obtain by any means, another person under 18 years of age,  
16 knowing that the minor will engage in commercial sexual  
17 activity, a sexually-explicit performance, or the production  
18 of pornography, or causes or attempts to cause a minor to  
19 engage in commercial sexual activity, a sexually-explicit  
20 performance, or the production of pornography, shall be  
21 punished as follows, subject to the provisions of subsection

22 (d):

23 (1) In cases involving a minor between the ages of 17  
24 and 18 years, not involving overt force or threat, the  
25 defendant is guilty of a Class 1 felony.

26 (2) In cases in which the minor had not attained the  
27 age of 17 years, not involving overt force or threat, the  
28 defendant is guilty of a Class X felony.

29 (3) In cases in which the violation involved overt  
30 force or threat, the defendant is guilty of a Class X  
31 felony.

32 (c) Trafficking of persons for forced labor or services.  
33 Whoever knowingly: (1) recruits, entices, harbors, transports,  
34 provides, or obtains by any means, or attempts to recruit,  
35 entice, harbor, transport, provide, or obtain by any means,  
36 another person, intending or knowing that the person will be

1 subjected to forced labor or services; or (2) benefits,  
2 financially or by receiving anything of value, from  
3 participation in a venture which has engaged in an act  
4 described in violation of paragraphs (a) or (b) of this  
5 Section, subject to the provisions of subsection (d), is guilty  
6 of a Class 1 felony.

7 (d) Sentencing enhancements.

8 (1) Statutory maximum; sexual assault, extreme  
9 violence, and death. If the violation of this Article  
10 involves kidnaping or an attempt to kidnap, aggravated  
11 criminal sexual assault or the attempt to commit aggravated  
12 criminal sexual assault, or an attempt to commit first  
13 degree murder, the defendant is guilty of a Class X felony,  
14 or if death results, may be sentenced as provided for first  
15 degree murder.

16 (2) Sentencing considerations within statutory  
17 maximums.

18 (A) Bodily injury. If, pursuant to a violation of  
19 this Article, a victim suffered bodily injury, the  
20 defendant may be sentenced to an extended term sentence  
21 under Section 5-8-2 of the Unified Code of Corrections.  
22 The sentencing court must take into account the time in  
23 which the victim was held in servitude, with increased  
24 penalties for cases in which the victim was held for  
25 between 180 days and one year, and increased penalties  
26 for cases in which the victim was held for more than  
27 one year.

28 (B) Number of victims. In determining sentences  
29 within statutory maximums, the sentencing court should  
30 take into account the number of victims, and may  
31 provide for substantially-increased sentences in cases  
32 involving more than 10 victims.

33 (e) Restitution. Restitution is mandatory under this  
34 Article. In addition to any other amount of loss identified,  
35 the court shall order restitution including the greater of (1)  
36 the gross income or value to the defendant of the victim's

1 labor or services or (2) the value of the victim's labor as  
2 guaranteed under the Minimum Wage Law and overtime provisions  
3 of the Fair Labor Standards Act (FLSA).

4 (f) Trafficking victim protection

5 (1) The Attorney General, in cooperation with the  
6 Administrative Office of the Illinois Courts, State's  
7 Attorneys, circuit court officials, the Department of  
8 Human Services, and the Department of Public Aid shall  
9 ensure that victims of trafficking or involuntary  
10 servitude are referred to appropriate social services,  
11 federal and State public benefits programs, victim  
12 protection services and immigration assistance services,  
13 where applicable.

14 (2) State's Attorneys shall refer an immigrant victim  
15 to the Attorney General for certification that the  
16 individual is a victim of trafficking or involuntary  
17 servitude so that the individual can qualify for a special  
18 immigrant visa and can have access to available federal  
19 benefits.

20 (3) The Attorney General, in consultation with the  
21 Department of Human Services, the Department of Public Aid  
22 and the Administrative Office of the Illinois Courts,  
23 shall, within 6 months after the effective date of this  
24 amendatory Act of the 94th General Assembly, determine and  
25 issue a report on how existing social services, public aid  
26 programs, and victim protecting laws and rules respond to  
27 the needs of victims of trafficking and involuntary  
28 servitude. The report shall identify areas where improved  
29 services and coordination are needed and make  
30 recommendations for modifications and improvements.